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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
MARIA ELENA MORALES ROSALES and
ALEJANDRO ESPINOZA ZUNIGA, *individually and
on behalf of others similarly situated,*

Plaintiffs,

against-

CHAVAL AL HAZMAN INC. (d/b/a CHAVAL AL
HAZMAN) and NEFTALI VIZEL

Defendants.

-----X

COMPLAINT

**COLLECTIVE ACTION
UNDER 29 U.S.C. § 216(b)**

ECF Case

Plaintiffs Maria Elena Morales Rosales and Alejandro Espinoza Zuniga, individually and on behalf of others similarly situated (“Plaintiffs”), by and through their attorneys, Michael Faillace & Associates, P.C., and as against each of Defendants Chaval Al Hazman Inc. (d/b/a Chaval Al Hazman) (“Defendant Corporation”) and Neftali Vizel, (collectively, “Defendants”), upon information and belief allege as follows:

NATURE OF ACTION

1. Plaintiffs are former employees of Defendants Chaval Al Hazman Inc. (d/b/a Chaval Al Hazman) and Neftali Vizel who owns and operates Chaval Al Hazman.
2. Chaval Al Hazman is an Israeli restaurant owned by Neftali Vizel, located at 4305 12th Avenue, Brooklyn, New York 11219.

3. Upon information and belief, Defendant Neftali Vizel serves or served as owner, manager, principal or agent of Defendant Corporation and through this corporate entity operates or operated the Israeli restaurant as a joint or unified enterprise.

4. Plaintiffs are former employees of Defendants.

5. Plaintiffs were employed as counter workers, cashiers, food preparers, and a porter at the Israeli restaurant located at 4305 12th Avenue, Brooklyn, New York 11219.

6. Plaintiffs regularly worked for Defendants in excess of 40 hours per week, without appropriate minimum wage or overtime compensation for the hours that they worked each week.

7. Rather, Defendants failed to maintain accurate records of hours worked and failed to pay Plaintiffs appropriately for any hours worked, either at the straight rate of pay or for any additional overtime premium.

8. Further, Defendants failed to pay Plaintiffs the appropriate “spread of hours” pay when they had to work over 10 hours in a day.

9. Defendants’ conduct extended beyond Plaintiffs to all other similarly situated employees.

10. At all times relevant to this complaint, Defendants maintained a policy and practice of requiring Plaintiffs and other employees to work in excess of forty (40) hours per week without providing the minimum wage and overtime compensation required by federal and state law and regulations.

11. Plaintiffs now bring this action on behalf of themselves, and other similarly situated individuals, for unpaid minimum and overtime wages pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.* (“FLSA”), the New York Labor Law (“NYLL”)

§§190 and 650 *et seq.*, and "overtime wage order" respectively codified at N.Y.C.R.R. Tit. 12 §§ 142-2.2, 2.4), and the "spread of hours" and overtime wage orders of the New York Commissioner of Labor codified at N.Y. COMP. CODES R. & REGS. tit. 12, § 146-1.6 (herein the "Spread of Hours Wage Order"), including applicable liquidated damages, interest, attorneys' fees, and costs.

12. Plaintiffs seek certification of this action as a collective action on behalf of themselves, individually, and all other similarly situated employees and former employees of Defendants pursuant to 29 U.S.C. § 216(b).

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction pursuant to 29 U.S.C. § 216(b) (FLSA), 28 U.S.C. § 1337 (interstate commerce) and 28 U.S.C. § 1331 (federal question). Supplemental jurisdiction over Plaintiffs' state law claims is conferred by 28 U.S.C. § 1367(a).

14. Venue is proper in this District under 28 U.S.C. § 391(b) and (c) because all or a substantial part of the events or omissions giving rise to the claims occurred in this district, Defendants operate their business in this district, and Plaintiffs were employed by Defendants in this district.

PARTIES

Plaintiffs

15. Plaintiff Maria Elena Morales Rosales ("Plaintiff Rosales" or "Ms. Rosales") is an adult individual residing in Kings County, New York. Plaintiff Rosales was employed by Defendants from approximately April 2007 until on or about August 18, 2017.

16. Plaintiff Alejandro Espinoza Zuniga (“Plaintiff Espinoza” or “Mr. Espinoza”) is an adult individual residing in Kings County, New York. Plaintiff Espinoza was employed by Defendants from approximately June 2007 until on or about August 11, 2017.

17. At all relevant times to this complaint, Plaintiff Espinoza was employed by Defendants as a counter worker, cashier, food preparer, and porter, while Plaintiff Rosales was employed by Defendants as a counter worker, cashier, food preparer, porter, delivery worker, cook and general assistant. Both Plaintiff Espinoza and Plaintiff Rosales were employed at Chaval Al Hazman, located at 4305 12th Avenue, Brooklyn, New York 11219.

18. Plaintiffs consent to being party Plaintiffs pursuant to 29 U.S.C. § 216(b), and bring these claims based upon the allegations herein as representative parties of a prospective class of similarly situated individuals under 29 U.S.C. § 216(b).

Defendants

19. Defendants own, operate, and/or control an Israeli restaurant located at 4305 12th Avenue, Brooklyn, New York 11219 under the name of Chaval Al Hazman, at all times relevant to this complaint.

20. Upon information and belief, Defendant Chaval Al Hazman Inc. (“Defendant Corporation”) is a corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principle place of business at 4305 12th Avenue, Brooklyn, New York 11219.

21. Defendant Neftali Vizel is an individual engaging (or who was engaged) in business within this judicial district during the relevant time period.

22. Defendant Neftali Vizel is sued individually in his capacity as an owner, officer and/or agent of defendant Corporation.

23. Defendant Neftali Vizel possesses or possessed operational control over defendant Corporation, an ownership interest in defendant Corporation, or controlled significant functions of defendant Corporation.

24. Defendant Neftali Vizel determined the wages and compensation of employees, including Plaintiff Rosales, established the schedules of employees, maintained employee records, and had the authority to hire and fire employees.

Defendants Constitute Joint Employers

25. Defendants operate an Israeli restaurant located at 4305 12th Avenue, Brooklyn, New York 11219.

26. Individual Defendant Neftali Vizel possesses operational control over defendant Corporation, possesses an ownership interest in defendant Corporation, and controls significant functions of defendant Corporation.

27. Defendants are associated and joint employers, act in the interest of each other with respect to employees, pay employees by the same method, and share control over the employees.

28. Each Defendant possessed substantial control over Plaintiffs' (and other similarly situated employees') working conditions, and over the policies and practices with respect to the employment and compensation of Plaintiffs and all similarly situated individuals, referred to herein.

29. Defendants jointly employed Plaintiffs, and all similarly situated individuals, and are Plaintiffs' (and all similarly situated individuals') employers within the meaning of 29 U.S.C. 201 *et seq.* and the NYLL.

30. In the alternative, Defendants constitute a single employer of Plaintiffs and/or similarly situated individuals.

31. Upon information and belief, Individual Defendant Neftali Vizel operates defendant Corporation as either an alter ego of himself, and/or fails to operate defendant Corporation as an entity legally separate and apart from himself, by, among other things:

(a) failing to adhere to the corporate formalities necessary to operate defendant Corporation as a separate and legally distinct entity;

(b) defectively forming or maintaining defendant Corporation, by among other things failing to hold annual meetings or maintaining appropriate corporate records;

(c) transferring assets and debts freely as between all Defendants;

(d) operating defendant Corporation for his own benefit as the sole or majority shareholder;

(e) operating defendant Corporation for his own benefit and maintaining control over it as a closed corporation or closely controlled entity;

(f) intermingling assets and debts of his own with defendant Corporation;

(g) diminishing and/or transferring assets of defendant Corporation to protect his own interests; and

(h) other actions evincing a failure to adhere to the corporate form.

32. At all relevant times, Defendants were Plaintiffs' employers within the meaning of the FLSA and NYLL.

33. Defendants had the power to hire and fire Plaintiffs, control the terms and conditions of employment, and determine the rate and method of any compensation in exchange for Plaintiffs' services.

34. In each year from 2011 to 2017, Defendants, both individually and jointly, had gross annual volume of sales of not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated).

35. In addition, upon information and belief, Defendants and/or their enterprise were directly engaged in interstate commerce. For example, numerous items that were sold in the Israeli restaurant on a daily basis were produced outside of the State of New York.

Plaintiffs

36. Plaintiffs are former employees of Defendants, who were employed as counter workers, cashiers, food preparers, porters, delivery worker, cook and general assistant.

37. Plaintiffs seek to represent a class of similarly situated individuals under 29 U.S.C. § 216(b).

Plaintiff Maria Elena Morales Rosales

38. Plaintiff Rosales was employed by Defendants from approximately April 2007 until on or about August 18, 2017.

39. At all relevant times, Plaintiff Rosales was employed by Defendants to work as a counter worker, cashier, food preparer, porter, delivery worker, cook and general assistant.

40. Plaintiff Rosales regularly handled goods in interstate commerce, such as food, condiments, and cleaning supplies, all of which were necessary for her to perform her duties.

41. Plaintiff Rosales's work duties required neither discretion nor independent judgment.

42. Throughout her employment with Defendants, Plaintiff Rosales regularly worked in excess of 40 hours per week.

43. From approximately August 2011 until on or about September 2016, Plaintiff Rosales worked from approximately 7 a.m. until on or about 6 p.m. 5 days a week and from approximately 7 a.m. until on or about 4:30 or 5:00 p.m. on Fridays (typically 64 to 65 hours per week).

44. From approximately October 2016 until on or about August 18, 2017, Plaintiff Rosales worked from approximately 8 a.m. until on or about 6 p.m. 5 days a week and from approximately 8 a.m. until on or about 4:30 to 5:00 p.m. on Fridays (typically 58 to 59 hours per week).

45. Throughout her employment with defendants, Plaintiff Rosales was paid her wages in cash.

46. From approximately August 2011 until on or about August 2012, Defendants paid Plaintiff Rosales a fixed salary of \$450.00 per week.

47. From approximately September 2012 until on or about September 2013, Defendants paid Plaintiff Rosales a fixed salary of \$475.00 per week.

48. From approximately September 2013 until on or about September 2014, Defendants paid Plaintiff Rosales a fixed salary of \$500.00 per week.

49. From approximately September 2014 until on or about September 2015, Defendants paid Plaintiff Rosales a fixed salary of \$520.00 per week.

50. From approximately September 2015 until on or about September 2016, Defendants paid Plaintiff Rosales a fixed salary of \$650.00 per week.

51. From approximately October 2016 until on or about April 2017, Defendants paid Plaintiff Rosales a fixed salary of \$550 per week.

52. From approximately May 2017 until on or about August 18, 2017, Defendants paid Plaintiff Rosales \$10.50 per hour for all her hours worked.

53. Plaintiff Rosales's wages did not vary regardless of how many additional hours she worked in a week.

54. For example, Plaintiff Rosales regularly worked 30 minutes past her scheduled departure time, and defendants did not compensate her for the additional time she worked.

55. In addition, on several occasions from approximately May 2017 until on or about August 18, 2017, Plaintiff Rosales noticed that she was not being paid for all of the hours she worked.

56. Defendants did not provide Plaintiff Rosales with any document or other statement accounting for her actual hours worked, or setting forth the rate of pay for all of her hours worked.

57. Defendants never granted Plaintiff Rosales any break or meal periods of any length.

58. No notification, either in the form of posted notices, or other means, was ever given to Plaintiff Rosales regarding wages as required under the FLSA and NYLL.

59. Plaintiff Rosales was not required to keep track of her time, nor to her knowledge did the Defendants utilize any time tracking device such as punch cards, that accurately reflected her actual hours worked.

60. Defendants did not provide Plaintiff Rosales with an accurate statement of wages, with each payment of wages, as required by NYLL 195(3).

61. Defendants did not give any notice to Plaintiff Rosales, in English and in Spanish (Plaintiff Rosales's primary language), of her rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

Plaintiff Alejandro Espinoza Zuniga

62. Plaintiff Espinoza was employed by Defendants from approximately June 2007 until on or about August 11, 2017.

63. At all relevant times, Plaintiff Espinoza was employed by Defendants to work as a counter worker, cashier, food preparer, and porter.

64. Plaintiff Espinoza regularly handled goods in interstate commerce, such as food, condiments, and supplies necessary to perform his duties as a food preparer.

65. Plaintiff Espinoza's work duties required neither discretion nor independent judgment.

66. Throughout his employment with Defendants, Plaintiff Espinoza regularly worked in excess of 40 hours per week.

67. From approximately August 2011 until on or about July 2015, Plaintiff Espinoza worked from approximately 7:00 a.m. until on or about 8:00 p.m. five days a week and from approximately 7:00 a.m. until on or about 4:30 p.m. to 5:00 p.m. one day a week (typically 74 to 75 hours per week).

68. From approximately July 2015 until on or about May 2017, Plaintiff Espinoza worked from approximately 7:30 a.m. until on or about 8:00 p.m. five days a week and from approximately 7:00 a.m. until on or about 4:30 p.m. to 5:00 p.m. one day a week (typically 70 to 71 hours per week).

69. For the month of May 2017, Plaintiff Espinoza worked from approximately 8:00 a.m. until on or about 5:00 p.m. five days a week and from approximately 8:00 a.m. until on or about 5:15 p.m. one day a week (typically 54.25 hours per week).

70. From approximately August 2011 until on or about January 2013, defendants paid Plaintiff Espinoza a fixed weekly salary of \$580.00.

71. From approximately January 2013 until on or about November 2015, defendants paid Plaintiff Espinoza a fixed weekly salary of \$600.00.

72. From approximately November 2015 until on or about November 2016, defendants paid Plaintiff Espinoza a fixed weekly salary of \$620.00.

73. From approximately November 2016 until on or about January 2017, defendants paid Plaintiff Espinoza a fixed weekly salary of \$640.00.

74. From approximately January 2017 until on or about May 2017, defendants paid Plaintiff Espinoza a fixed weekly salary of \$650.00.

75. For the month of May 2017, defendants paid Plaintiff Espinoza \$10.50 per hour.

76. Plaintiff Espinoza's wages did not vary regardless of how many additional hours he worked in a week.

77. Defendants did not provide Plaintiff Espinoza with any document or other statement accounting for his actual hours worked, or setting forth the rate of pay for all of his hours worked.

78. Defendants never granted Plaintiff Espinoza any break or meal periods of any length.

79. No notification, either in the form of posted notices, or other means, was ever given to Plaintiff Espinoza regarding wages as required under the FLSA and NYLL.

80. Plaintiff Espinosa was not required to keep track of his time, nor to his knowledge did the Defendants utilize any time tracking device such as punch cards, that accurately reflected his actual hours worked.

81. Defendants did not provide Plaintiff Espinoza with an accurate statement of wages, with each payment of wages, as required by NYLL 195(3).

82. Defendants did not give any notice to Plaintiff Espinoza, in English and in Spanish (Plaintiff Espinoza's primary language), of his rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

Defendants' General Employment Practices

83. Defendants regularly required Plaintiffs to work in excess of forty (40) hours per week without paying them minimum wage, overtime compensation and spread of hours pay.

84. At all times relevant to this complaint, Defendants maintained a policy and practice of requiring Plaintiffs and all similarly situated employees to work in excess of forty (40) hours per week without paying them appropriate minimum wage and overtime compensation, as required by federal and state laws.

85. As part of their regular business practice, Defendants intentionally, willfully, and repeatedly harmed Plaintiffs by engaging in a pattern, practice, and/or policy of violating the FLSA and the NYLL.

86. Plaintiffs were victims of Defendants' common policy and practices violating their rights under the FLSA and New York Labor Law by not paying them the wages they were owed for the hours they had worked.

87. Defendants willfully disregarded and purposefully evaded recordkeeping requirements of the Fair Labor Standards Act and New York Labor Law by failing to maintain accurate and complete timesheets and payroll records.

88. Defendants paid Plaintiffs their wages in cash.

89. Defendants required Plaintiffs to sign a document, the contents of which they were not given an opportunity to read, in order to get their weekly pay.

90. Defendants also failed to post required wage and hour posters in the restaurant, and did not provide Plaintiffs with statutorily required wage and hour records or statements of their pay received, in part so as to hide Defendants' violations of the wage and hour laws, and to take advantage of Plaintiffs' relative lack of sophistication in wage and hour laws.

91. Upon information and belief, these practices by Defendants were done willfully to disguise the actual number of hours Plaintiffs (and similarly situated individuals) worked, and to avoid paying Plaintiffs properly for 1) their full hours worked, 2) minimum wage, 3)for overtime due, and 4) spread of hours pay.

92. Defendants engaged in their unlawful conduct pursuant to a corporate policy of minimizing labor costs and denying employees compensation by knowingly violating the FLSA and NYLL.

93. Defendants' unlawful conduct was intentional, willful, in bad faith, and caused significant damages to Plaintiffs and other similarly situated current and former workers.

94. Defendants failed to provide Plaintiffs and other employees with wage statements at the time of payment of wages, containing: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece,

commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; net wages; the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked, and the number of overtime hours worked, as required by NYLL §195(3).

95. Defendants failed to provide Plaintiffs and other employees, at the time of hiring and on or before February 1 of each subsequent year, a statement in English and the employees' primary language, containing: the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; and the telephone number of the employer, as required by New York Labor Law §195(1).

FLSA COLLECTIVE ACTION CLAIMS

96. Plaintiffs bring their FLSA minimum wage, overtime, and liquidated damages claims as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b), on behalf of all similarly situated persons who are or were employed by Defendants, or any of them, on or after the date that is three years before the filing of the complaint in this case (the "FLSA Class Period"), as employees of Chaval Al Hazman (the "FLSA Class").

97. At all relevant times, Plaintiffs and other members of the FLSA Class who are and/or have been similarly situated, have had substantially similar job requirements and pay provisions, and have been subject to Defendants' common practices, policies, programs, procedures, protocols and plans of willfully failing and refusing to pay them the required

minimum wage under the FLSA and the required overtime pay at a one and one-half their regular rates for work in excess of forty (40) hours per workweek under the FLSA.

98. At all relevant times, Plaintiffs, and other members of the FLSA Class who are and/or have been similarly situated, have been subject to Defendants' willful failure to keep records required by the FLSA.

99. The claims of the Plaintiffs stated herein are similar to those of the other employees.

FIRST CAUSE OF ACTION
VIOLATION OF THE MINIMUM WAGE PROVISIONS OF THE FLSA

100. Plaintiffs repeat and re-allege all paragraphs above as though fully set forth herein.

101. At all times relevant to this action, Defendants were Plaintiffs' employers (and employers of the putative FLSA Class members) within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203(d). Defendants had the power to hire and fire Plaintiffs (and the FLSA class members), control the terms and conditions of employment, and determine the rate and method of any compensation in exchange for employment.

102. At all times relevant to this action, Defendants were engaged in commerce or in an industry or activity affecting commerce.

103. Defendants constitute an enterprise within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203 (r-s).

104. Defendants failed to pay Plaintiffs (and the FLSA Class members) at the applicable minimum hourly rate, in violation of 29 U.S.C. § 206(a).

105. Defendants' failure to pay Plaintiffs (and the FLSA Class members) at the applicable minimum hourly rate was willful within the meaning of 29 U.S.C. § 255(a).

106. Plaintiffs (and the FLSA Class members) were damaged in an amount to be determined at trial.

SECOND CAUSE OF ACTION
VIOLATION OF THE OVERTIME PROVISIONS OF THE FLSA

107. Plaintiffs repeat and re-allege all paragraphs above as though fully set forth herein.

108. Defendants, in violation of the FLSA, failed to pay Plaintiffs (and the FLSA Class members) overtime compensation at rates of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a workweek, in violation of 29 U.S.C. § 207 (a)(1).

109. Defendants' failure to pay Plaintiffs (and the FLSA Class members) overtime compensation was willful within the meaning of 29 U.S.C. § 255(a).

110. Plaintiffs (and the FLSA Class members) were damaged in an amount to be determined at trial.

THIRD CAUSE OF ACTION
VIOLATION OF THE NEW YORK MINIMUM WAGE RATE

111. Plaintiffs repeat and re-allege all paragraphs above as though fully set forth herein.

112. At all times relevant to this action, Defendants were Plaintiffs' employers within the meaning of the N.Y. Lab. Law §§ 2 and 651. Defendants had the power to hire and fire Plaintiffs (and the FLSA Class members), control terms and conditions of employment, and determine the rates and methods of any compensation in exchange for employment.

113. Defendants, in violation of the NYLL, paid Plaintiffs (and the FLSA Class members) less than the minimum wage in violation of NYLL § 652(1) and the supporting regulations of the New York State Department of Labor.

114. Defendants' failure to pay Plaintiffs (and the FLSA Class members) minimum wage was willful within the meaning of N.Y. Lab. Law § 663.

115. Plaintiffs (and the FLSA Class Members) were damaged in an amount to be determined at trial.

FOURTH CAUSE OF ACTION
VIOLATION OF THE OVERTIME PROVISIONS OF
THE NEW YORK STATE LABOR LAWS

116. Plaintiffs repeat and re-allege all paragraphs above as though fully set forth herein.

117. Defendants, in violation of the NYLL and associated rules and regulations, failed to pay Plaintiffs (and the FLSA Class members) overtime compensation at rates of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a workweek, in violation of N.Y. Lab. Law § 190 *et seq.* and supporting regulations of the New York State Department of Labor.

118. Defendants' failure to pay Plaintiffs (and the FLSA Class members) overtime compensation was willful within the meaning of N.Y. Lab. Law § 663.

119. Plaintiffs (and the FLSA Class Members) were damaged in an amount to be determined at trial.

FIFTH CAUSE OF ACTION
VIOLATION OF THE SPREAD OF HOURS WAGE ORDER
OF THE NEW YORK COMMISSIONER OF LABOR

120. Plaintiffs repeat and re-allege all paragraphs above as though fully set forth herein.

121. Defendants failed to pay Plaintiffs (and the FLSA class members) one additional hour's pay at the basic minimum wage rate before allowances for each day Plaintiffs' spread of hours exceeded ten hours in violation of New York Lab. Law §§ 190 et seq. and 650 et seq. and the wage order of the New York Commissioner of Labor codified at N.Y. COMP. CODES R. & REGS. Tit. 12, § 146-1.6.

122. Defendants' failure to pay Plaintiffs (and the FLSA Class members) an additional hour's pay for each day Plaintiffs' (and the FLSA Class members) spread of hours exceeded ten hours was willful within the meaning of New York Lab. Law § 663.

123. Plaintiffs (and the FLSA Class members) were damaged in an amount to be determined at trial.

SIXTH CAUSE OF ACTION
VIOLATION OF THE NOTICE AND RECORDKEEPING
REQUIREMENTS OF THE NEW YORK LABOR LAW

124. Plaintiffs repeat and re-allege all paragraphs above as though fully set forth herein.

125. Defendants failed to provide Plaintiffs with a written notice, in English and in Spanish (Plaintiffs' primary language), of their rate of pay, regular pay day, and such other information as required by NYLL §195(1).

126. Defendants are liable to each Plaintiff in the amount of \$5,000, together with costs and attorneys' fees.

SEVENTH CAUSE OF ACTION
VIOLATION OF THE WAGE STATEMENT PROVISIONS
OF THE NEW YORK LABOR LAW

127. Plaintiffs repeat and re-allege all paragraphs above as though set forth fully herein.

128. Defendants did not provide Plaintiffs with wage statements upon each payment of wages, as required by NYLL 195(3).

129. Defendants are liable to each Plaintiff in the amount of \$5,000, together with costs and attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants:

(a) Designating this action as a collective action and authorizing prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all putative class members, apprising them of the pendency of this action, and permitting them promptly to file consents to be Plaintiffs in the FLSA claims in this action;

(b) Declaring that Defendants violated the minimum wage provisions of, and associated rules and regulations under, the FLSA as to Plaintiffs and the FLSA class members;

(c) Declaring that Defendants violated the overtime wage provisions of, and associated rules and regulations under, the FLSA as to Plaintiffs and the FLSA class members;

(d) Declaring that Defendants violated the recordkeeping requirements of, and associated rules and regulations under, the FLSA with respect to Plaintiffs' and the FLSA class members' compensation, hours, wages, and any deductions or credits taken against wages;

(e) Declaring that Defendants' violation of the provisions of the FLSA were willful as to Plaintiffs and the FLSA class members;

(f) Awarding Plaintiffs and the FLSA class members damages for the amount of

unpaid minimum and overtime wages, and damages for any improper deductions or credits taken against wages under the FLSA as applicable;

(g) Awarding Plaintiffs and the FLSA class members liquidated damages in an amount equal to 100% of their damages for the amount of unpaid minimum and overtime wages, and damages for any improper deductions or credits taken against wages under the FLSA as applicable pursuant to 29 U.S.C. § 216(b);

(h) Declaring that Defendants violated the minimum wage provisions of, and rules and orders promulgated under, the NYLL as to Plaintiffs and the members of the FLSA Class;

(i) Declaring that Defendants violated the overtime wage provisions of, and rules and orders promulgated under, the NYLL as to Plaintiffs and the members of the FLSA Class;

(j) Declaring that Defendants violated the Spread of Hours Wage Order of the New York Commission of Labor as to Plaintiffs and the members of the FLSA Class;

(k) Declaring that Defendants violated the recordkeeping requirements of the NYLL with respect to Plaintiffs' and the FLSA Class members' compensation, hours, wages; and any deductions or credits taken against wages;

(l) Declaring that Defendants' violations of the New York Labor Law were willful as to Plaintiffs and the FLSA Class members;

(m) Awarding Plaintiffs and the FLSA class members damages for the amount of unpaid minimum and overtime wages as well as spread of hours pay under the NYLL as applicable;

(n) Awarding Plaintiffs and the FLSA class members liquidated damages in an amount equal to one hundred percent (100%) of the total amount of minimum wage, overtime compensation and spread of hours pay shown to be owed pursuant to NYLL § 663 as applicable;

(o) Awarding Plaintiffs and the FLSA class members pre-judgment and post-judgment interest as applicable;

(p) Awarding Plaintiffs and the FLSA class members the expenses incurred in this action, including costs and attorney's fees;

(q) Providing that if any amounts remain unpaid upon the expiration of ninety days following issuance of judgment, or ninety days after expiration of the time to appeal and no appeal is then pending, whichever is later, the total amount of judgment shall automatically increase by fifteen percent, as required by NYLL § 198(4); and

(r) All such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues triable by a jury.

Dated: New York, New York
August 23, 2017

MICHAEL FAILLACE & ASSOCIATES, P.C.

/s/ Michael Faillace

By: Michael A. Faillace [MF-8436]
60 East 42nd Street, Suite 4510
New York, New York 10165
(212) 317-1200
Attorneys for Plaintiff

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E 42nd Street, Suite 4510
New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

August 22, 2017

BY HAND

TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

Name / Nombre: Maria Elena Morales Rosales

Legal Representative / Abogado: Michael Faillace & Associates, P.C.

Signature / Firma:



Date / Fecha:

22 de agosto de 2017

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E 42nd Street, Suite 4510
New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

August 22, 2017

BY HAND

TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

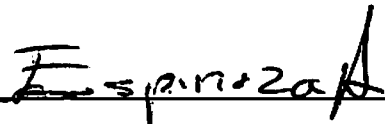
Name / Nombre:

Alejandro Espinoza Zuniga

Legal Representative / Abogado:

Michael Faillace & Associates, P.C.

Signature / Firma:



Date / Fecha:

22 de agosto de 2017

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
MARIA ELENA MORALES ROSALES and
ALEJANDRO ESPINOZA ZUNIGA, individually and
on behalf of others similarly situated,
(b) County of Residence of First Listed Plaintiff Kings
(c) Attorneys (Firm Name, Address, and Telephone Number)
Michael A. Faillace, Michael Faillace & Associates, P.C.
60 East 42nd Suite 4510
New York, NY 10165

DEFENDANTS
CHAVAL AL HAZMAN INC. (d/b/a CHAVAL AL
HAZMAN) and NEFTALI VIZEL
County of Residence of First Listed Defendant Kings
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Plaintiffs seek unpaid overtime wages pursuant to The Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.
Brief description of cause:
unpaid overtime wages

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 08/23/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael Faillace

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Michael Faillace, counsel for Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
the complaint seeks injunctive relief,
the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
2.) If you answered "no" above:
a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? NO
b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? N/A

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

- Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

- Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s/ Michael Faillace

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

MARIA ELENA MORALES ROSALES and
ALEJANDRO ESPINOZA ZUNIGA et al.

Plaintiff

v.

CHAVAL AL HAZMAN INC. (d/b/a CHAVAL AL
HAZMAN) and NEFTALI VIZEL

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Chaval Al Hazman Inc. (d/b/a Chaval Al Hazman)
4305 12th Avenue
Brooklyn, New York 11219

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,

whose name and address are: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

MARIA ELENA MORALES ROSALES and
ALEJANDRO ESPINOZA ZUNIGA et al.

Plaintiff

v.

CHAVAL AL HAZMAN INC. (d/b/a CHAVAL AL
HAZMAN) and NEFTALI VIZEL

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) NEFTALI VIZEL
4305 12th Avenue
Brooklyn, New York 11219

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Operating Co. of NYC Israeli Restaurant Chaval Al Hazman Facing Wage and Hour Lawsuit](#)
